

ADMINISTRATIVE LEVELS AND FUNCTIONAL DIFFERENTIATION

**A COMPARATIVE STUDY OF
INDIA AND THE U. S.**

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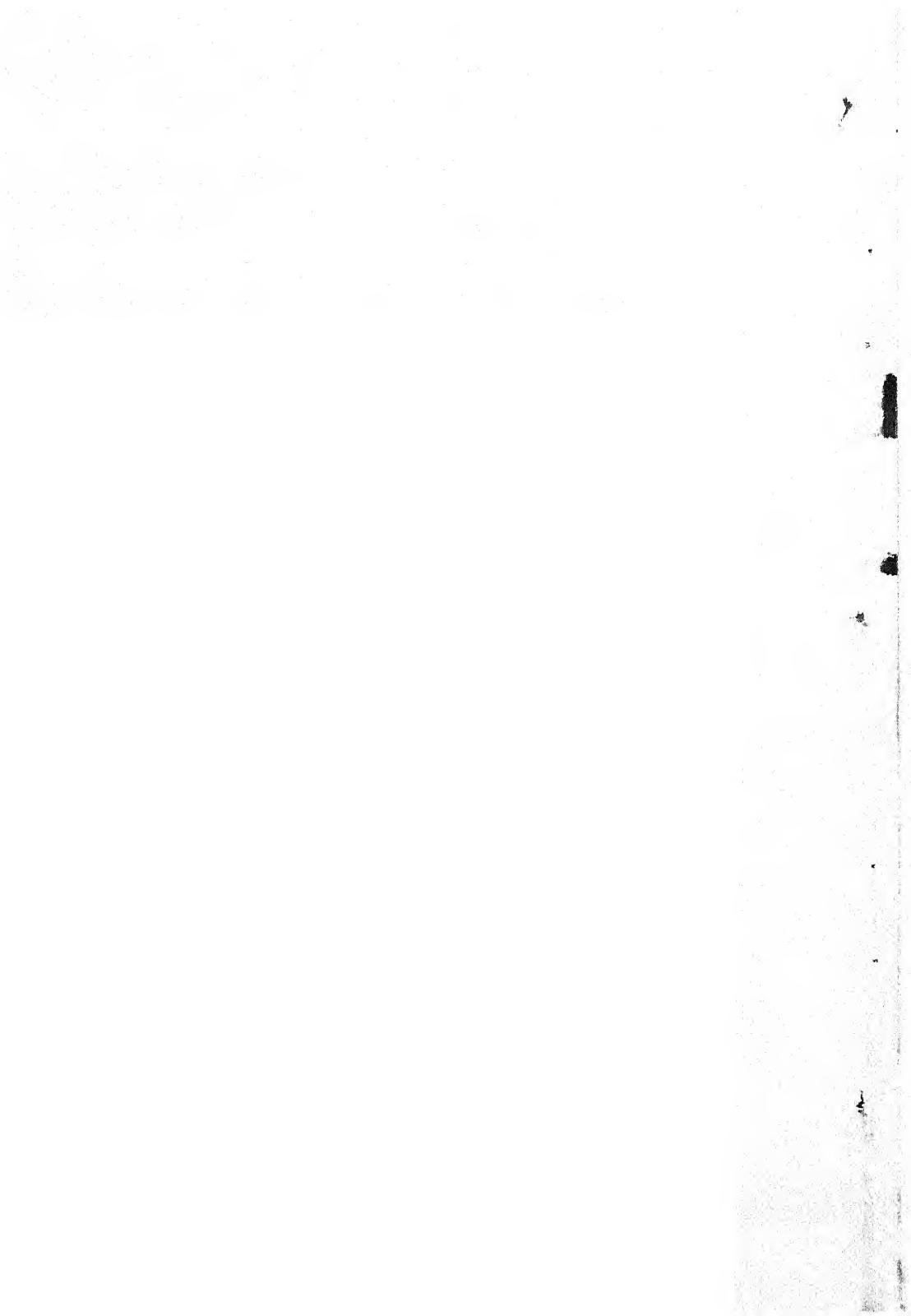
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FOREWORD

With the growing complexity of politico-administrative functions in the contemporary society, it is becoming evident that a one to one relationship between structures and functions is impossible to achieve. Whether it is a relatively 'diffracted' society like the U. S. or a 'prismatic' society like India, there is bound to exist an overlapping of functions among various administrative units operating at different levels. In this monograph, Dr. Ramesh K. Arora has tried to examine the issue of functional differentiation in the context of central, state, and local governments in the two largest democratic federal states, viz., India and the United States of America.

The monograph is particularly designed for those who would like to understand the dynamics of American federalism, as also to have a comparative appreciation of the Indian and the American federal structures. This comparative analysis has been made more specific by focusing upon the administrative systems and sub-systems of both the countries.

The present monograph is the first in a series of several to be published by the Rajasthan Regional Branch of the Indian Institute of Public Administration. I sincerely hope that it will be welcomed by the students of Administration and others alike.

B. Mehta

Jaipur,

Chairman

August, 1973.

Rajasthan Regional Branch

Indian Institute of
Public Administration

This monograph is an attempt to present a comparative analysis of governmental functions in relation to the levels at which they are performed in the two largest democratic federal systems in the world—the U. S. A. and India. This study, however, would not limit itself to the broad analysis of the legal frameworks concerning federalism, but would also attempt to dwell upon the changing realities in the two dynamic political systems. It would be pertinent indeed, if a brief reference is made at the outset to the various important variables which form the environment of the two administrative systems.

THE ENVIRONMENTAL CONTEXT

India, although having a hoary past of more than five thousand years, entered the vestibule of the modern world recently. On the other hand, the United States of America has only a history of about half a millennium, though its metamorphosis started in the eighteenth century. Both the nations have remained, for different periods, under the British imperialist rule. American independence, however, preceded India's by a period of about 170 years.

The U. S., with an area of 3,615,211, sq. miles,¹ is the fourth largest country in the world, while India, with an area of 1,196,995 sq. miles² ranks seventh on the globe. The population of India is

about 560 million people,³ about $2\frac{1}{2}$ times more than that of the U. S., which has a population of 210 million.⁴ Thus India becomes the second most populous country in the world, i. e. next only to the Peoples' Republic of China, while the U. S. ranks fourth in the list. India's density of population is 415.3 per sq. mile,⁵ as against only 56.3 in the U. S.⁶

The U. S. and India present two extremes of economic development, with the former having a per capita income of around \$ 3,500⁷ and the latter lagging far behind with only about \$ 74.⁸ If, however, the income is not computed in dollars and considered instead in terms of price levels in both the nations, the Indian situation may not seem to be that desperate, though will still appear to be far from happy. A "prismatic" society like India puts great strains on its political and administrative systems. The low stage of economic development has forced the Indian government to adopt planning to regulate and direct the transfiguration of the social and economic order of the country.

✓ Both the U. S. and India are democratic republics having federal structures of government. There are fifty states in the U. S. as compared to twenty one in India. Besides, there are nine union or centrally administered territories in India, as against only the District of Columbia in the U. S., which is directly governed by the federal administration.

Texas, the largest American state outside Alaska, has an area of 267, 339 sq. miles⁹, while Madhya Pradesh, the largest Indian state, is 171, 217 sq. miles in size.¹⁰ The smallest American state, Rhode island, has an area of 45,333 Sq. miles,¹¹ while Kerala, the smallest Indian state, has an area of only 15,002 sq. miles.¹² Further, the most populous American state, California, has a population of 18.92 million,¹³ as compared to 88.34 millions—the population of Uttar Pradesh,¹⁴ the most populous Indian state. It is interesting to note that Uttar Pradesh alone has more population than the combined figures for thirty nine American states. On the other hand, the largest Indian city, Bombay, has a population around 55 million,¹⁵ as compared to the city of New York which has a population of around 81 million.¹⁶ It may be mentioned, however, that only a small

minority of India's population lives in urban areas, while in the U. S. urbanization has reached a substantially advanced stage. Further, there are glaring differences in the stages of development in the realms of education, transportation, communication etc. between the two countries.

THE INSTITUTIONAL STRUCTURE

Before dealing with the 'functions' (in the eclectical sense of the term) of different 'structures', a brief discussion of the various levels at which administration is conducted in the U. S. and in India will be pertinent.

In both the countries, the federal governments (in India, usually referred to as the 'union' or 'central' government) play a crucial role in their respective national administrative systems. Notwithstanding the differences between their political systems, administrative functions in both the countries are performed through a top level network of ministries and/or departments. The number of federal departments in the U. S. is eleven, but in India, the central ministries and departments number around twenty four, the Indian figure fluctuating from time to time along with the process of administrative reorganization. Further, the American President has an Executive Office, while in India, the Cabinet Secretariat performs the functions of policy coordination and of advising the chief executive. In both the countries several independent bodies are "attached" to the executive branch of the government. For instance in the U. S., there is the U. S. Civil Service Commission, which has its Indian counterpart in the Union Public Service Commission. Likewise, India's Comptroller and Auditor General is matched by the American Comptroller General, even though variations in their respective powers and functions do exist. Despite the fact that 'independent' regulatory commissions of the U. S. do not have their Indian counterparts, in India, there do exist some 'line' agencies and public corporations which perform regulatory as well as control functions. A public corporation such as the T. V. A. (Tennessee Valley Authority) has its counterpart in India's D. V. C. (Damodar Valley Corporation), which in fact, has been modelled after the former. There are numerous other corporations and companies in

the Indian public sector, but they are not popular forms of organizational devices in the U. S..

In both the federal systems, constitutionally speaking, all the constituent states are at par with each other in their respective countries. As the American states have control over their own governmental organizational set-ups, this results into a pronounced diversity in their administrative patterns. Unlike the American pattern, Indian states do not have their separate constitutions, and their fundamental institutional structure is determined by the Constitution of India. Further, in India, several all India services function at the central as well as at the state levels. These services help to bring about uniformity in the state administrative structures in India, while in the U. S., there are no such services.

It is interesting to note that most of the Indian states have unicameral legislatures, while in the U. S., all but one (Nebraska) states have bi-cameral legislative structures. The members of the upper house in the Indian state legislatures are elected indirectly, while in America, it is through popular vote that members to both the houses of state legislatures are elected.

The judicial system of all the states in India is similar, excepting that the number of judges might differ from state to state. It may be noted that unlike the U. S., the nomenclature "Supreme Court" is applied only to the federal court in India—the highest court of the land; a state court is known as a "High Court". In America, judges are elected in approximately 82 % of the state and local courts,¹⁷ while the judges of High Courts in India are appointed by the President of India.

Subject to minor local variations, the structure and functions of the subordinate courts are more or less uniform throughout India. At the district level all the civil and criminal courts have been put under the jurisdiction of a sessions court presided over by a District and Sessions Judge. Subordinate to the District and Sessions Judge is a hierarchy of different grades of civil judicial authorities. Further, unlike the American system, in India, there are no two systems of courts—federal and state—exercising jurisdiction

over a single territory. The state High Courts act, in fact, as representatives of the Indian Supreme Court in matters concerning the Indian constitutional law.

The executive head of an Indian state is the Governor, who has not much in common with his American counterpart. A state Governor in India is appointed by the President for a term of five years and, excepting in emergency situations when there is a constitutional breakdown in 'his' state, he acts only as titular head, since the real executive power is vested in the Council of Ministers. Unlike the U. S. system, in India, state officials, excepting of course, the ministers, are not elected on the basis of a popular vote, and all appointments are made by or in the name of the Governor.

As in the U. S., Indian states have the constitutional authority to create and control their local government agencies. States in India, as in the U. S., do sometimes, in the process of reorganization, make changes in their administrative structures, but these changes are generally not radical enough to cause any drastic deviation from the general pattern existing in the state administration.

For administrative purposes, each Indian state has been divided into various districts. Each district has its own administrative machinery headed by the Collector and District Magistrate (also known, in some states, as Deputy Commissioner and District Magistrate) who works under the control and supervision of the state government. For the purposes of administration of revenue and of law and order, every district is divided into a number of sub-divisions which are further divided into taluks or tehsils. The sub-divisional magistrate and tehsildars of these sub-divisions and tehsils are the principal assistants of the Collector in their respective areas. Every tehsil is divided into a number of patwar circles and each of these circles is placed under the charge of a patwari who is the lowest level functionary in the hierarchy of revenue officials. At the village level, there is the village headman who collects revenue and looks after law and order. For purposes of police administration, a district is headed by a Superintendent

of Police, who, in turn, has under him, Deputy Superintendents of Police, Inspectors, Circle Inspectors, and Sub-inspectors.

For the purposes of developmental functions in the rural areas, most states have a three tier Panchayati Raj system at district, block, and village levels. The rural local governments, thus, in all the Indian states have practically similar institutions with different emphases on their functions. Panchayati Raj or Democratic Decentralization, as it is also called, is an innovation largely initiated by the Union Government, and as stated above, it is in operation in most of the Indian states.¹⁸ The three main institutions in this scheme are : Zila Parishad at the district level, Panchayat Samiti at the block level, and Panchayat at the village level. The other two institutions in the Panchayati Raj set up are : Gram Sabha, composed of the entire adult population of a village, and Nyaya Panchayat, a body competent to try cases involving minor offences under the Indian Penal Code and under other special and local laws. There exists one Nyaya Panchayat for two or more Panchayat areas. All the rural bodies are under the supervision of the state governments, although under the state laws, these bodies have been granted considerable autonomy.

It may be mentioned that the states which have not adopted the three tier system of Panchayati Raj, continue to have the traditional system of village panchayats. In the whole of India, under the old or the new pattern, 2,19,119 village panchayats are functioning¹⁹, covering more than 98 percent of the entire rural population.

As regards the urban government, a considerable similarity in the pattern of municipal government agencies exists throughout India. Large cities have municipal corporations headed by elected Mayors, small or medium sized cities have municipalities, and smaller and less developed urban areas fall under the categories of either Notified Areas or Town areas. These bodies, though working under the supervisory jurisdiction of state governments, enjoy considerable administrative autonomy.

The U. S. local government scene is characterised by a

pervasive diversity in structure. There is no single system of local government operating in all the states. The structure of local government in each state is a patch-work, with the same territory sometimes covered by even 10 to 12 separate governing bodies, each of these with slightly varying boundaries and with independent powers. In the 50 states, there are more than 91,000 local governing units, of which slightly more than 3,000 are counties (parishes in Louisiana), nearly 18,000 are cities or villages, and more than 18,000 are special units. The administrative structure in various units differs widely and it may not be possible to treat this aspect in sufficient details here.

After having a brief review of the broad structural pattern of administration in the U. S. and India, an attempt is being made below to study the levels at which various functions are performed in both these countries.

THE CONSTITUTIONAL ARRANGEMENT

A common feature of many federal constitutions which follow the American federal model is to specify the legislative powers of the Union Government and leave the residue powers with the states. The Canadian Constitution, on the other hand, follows a different system according to which there are two lists of legislative powers, one for the centre and other for the provinces and the residue powers being vested in the centre. The Indian Constitution follows a system similar to the Canadian, but with more elaborate Union and State lists as also an additional list viz., the Concurrent List. In drawing up the Concurrent List, the framers of the Indian Constitution have followed the Australian pattern of the federal division of powers. Accordingly, under Article 246 of the Constitution of India, the division of legislative powers between the centre and the states has been made on the basis of three lists—the Union List consisting of ninety seven items, the State List consisting of sixty six items, and the Concurrent List comprising of forty seven items. The details of these lists are specified in the Seventh Schedule of the Indian Constitution.

Unlike its Indian counterpart, the American Constitution does not specify in detail the powers of the federal government vis-a-vis the state governments. It enumerates the jurisdictional powers of the federal government, specifies guarantees to the states under Article IV (section 4), and vests, as per tenth amendment of the Constitution, reserves powers of the government in the hands of states. The American Constitution also lays down some important restrictions on the states and thus limits the scope of their activities. "It is perhaps a part of the maturity or aging of the nation that today makes many of the national constitutional limitations on the states simply facts not to be questioned but part of the established boundaries of state action."²⁰

THE FEDERAL FACET

The Indian Constitution empowers the union government to legislate on subjects enumerated in the Union List which include, besides others, matters pertaining to defence, foreign affairs, currency and coinage and communications. Apparently, all these functions are necessarily "national" in character. Practically all federal constitutions allocate such functions to the central government, excepting, of course, the U. S. S. R. Constitution which gives to its Republics, the "theoretical" right to conduct their own foreign relations. The subjects enumerated in the Union List of the Indian Constitution also cover the field of education, although only partially. Important central universities such as Delhi University, J. L. Nehru University, Banaras Hindu University and the Aligarh Muslim University are under the direct jurisdiction of central government. Besides, the Indian Parliament has the right to declare any educational institution as one having "national importance", and that would automatically bring it under direct central control. Further, there are several national agencies and institutions for professional, vocational or technical training and research which come under the control and supervision of the Union Government. In this context it might be pertinent to note item 66 of the Union List which reads: "Coordination and determination of standards in institutions for higher education or research and scientific institutions." It is this provision supported by the ramifications of social and economic planning, that strengthens the idea of a national educational policy

and of an increase in the control of the centre over the field of education—particularly higher education—in India.

Items concerning the regulation and control of important areas of national life, like national highways and waterways, maritime shipping and navigation ports, light-houses, interstate trade and commerce, banking, insurance, financial corporations, stock exchanges and future markets, and minerals and oil resources also come under the Union List of the Indian Constitution. This list also covers central public enterprises, the ownership and control of which is the exclusive monopoly of the union government. These public enterprises include railways, airways, post and telegraph, telephone wireless, broadcasting and the Reserve Bank of India.

Under the American Constitution, the federal government possesses exclusive jurisdiction over functions relating to war, standing armies, foreign relations, foreign and inter-state commerce, legal tender money, patent and copy-rights, naturalization of aliens, maritime law, and the administration of territories or colonies. Interestingly, except for the last item, viz., the administration of territories or colonies, which does not apply to India, all subjects mentioned above form an integral part of the Union List of the Indian Constitution as well. In the U. S., the federal government, mainly through independent regulatory commissions, exercises regulatory powers on some other sectors that are mentioned in the Indian Union List, excepting, of course, the postal field, which is being administered by a separate public corporation since 1971.

There is a view that in the U. S., the "National government must look to the Constitution for powers; but the states must look to the document only for limitation."²¹ As we shall see, the traditional view of "dual federalism" no more holds true in the U. S., and the range of activities of the National government has a deep penetration into the state and local affairs.

The range of functions of the U. S. federal government, as reflected in its recent budgets, encompasses defence, civil defence, international military assistance, atomic energy, space research and technology, international economic and financial assistance, foreign

information and exchange, farm income stabilization, financing farming and rural housing, financing rural electrification, agricultural research, water resources and power, land management, mineral resources, fish and wildlife resources, recreational resources, general resource surveys and administration, air, water and ground transportation, postal service, advancement of business, area and regional development, regulation of business, concentrated community development, community environment, community facilities, community planning and administration, low and moderate income housing, maintenance of house mortgage market, elementary and secondary education, higher education, vocational education, manpower education, science education and basic research, health, income security plans, veterans benefits and services etc.²² In the fiscal 1971 budget, programmes like Family Assistance Programme and Revenue Sharing Programme were added; besides, greater emphasis was laid on schemes pertaining to food assistance, crime reduction, manpower training, transportation, air and water pollution problem, and increased park and open spaces.²³ If the details and sub-details of all the programmes mentioned in the budget are considered, it would become obvious that every man who resides in any corner of the U. S., or even passes through its air space, has his indirect or direct concern with the federal government in the Washington D. C..

It is natural, therefore, that there has been a proliferation of federal agencies having broad policymaking, directing and supervisory functions relating to essentially state and local affairs. A few such agencies are: Department of Housing and Urban Development, Department of Health, Education and Welfare, Department of Interior; Department of Transportation; Department of Commerce; Department of Agriculture; Appalachian Regional Commission; Delaware River Basin Commission; Council of Urban Affairs; Council on Environmental Quality; Commission on Civil Rights; Equal Employment Opportunity Commission; Farm Credit Administration; Selective Service System; and, of course, the various regulatory commissions such as the Federal Commerce Commission, Inter-state Commerce Commission, and Federal Power Commission which have national jurisdiction and are directly concerned with subjects having a bearing on state and local governments. In fact, there is no federal agency

which is not influenced by, or does not affect, state and local governmental policies and actions. In India, the number of such federal agencies is even larger than in the U. S..

The Concurrent List Of the Indian Constitution

The Concurrent List of the Indian Constitution contains items with respect to which uniformity of legislation throughout India is desirable but not essential. As such, these subjects are placed under the jurisdiction of both the union and the states. The list includes items such as detention for reasons connected with the security of the State, marriage and divorce, transfer of property other than agricultural land, contracts, trust and trustees, adulteration of food stuffs, drugs and poisons, economic and social planning, commercial and industrial monopolies, trade unions, social security, labour welfare, legal, medical and other professions, vital statistics, factories, electricity, newspapers, books and printing etc.. The Indian Parliament and the state legislatures have concurrent power of legislation over the items included in the Concurrent List. So long as Parliament does not pass a law on any of these items, the states may enact any law affecting these functional areas. As would be observed, most of the functions enlisted in the Concurrent List of the Indian Constitution are also covered, directly or indirectly, under the functions of federal and state governments in the U. S..

THE STATE SPHERE

Division of powers between the federal government and the state governments is the very basis of a federal polity. In this division, such subjects are usually allotted to the states as have greater relevance with the regional and local problems. In India, some of the more important items in the State List are : public order, police, administration of justice, local government, public health and sanitation, education, agriculture, animal husbandry, irrigation, land rights, forests, trade and commerce within the state, and intra-state communication.

Though public order is a subject in the State List, it has been

left to the union government to decide whether a satisfactory public order exists in a particular state or not. Article 352 of the Indian Constitution authorises the President of India to proclaim a state of emergency if he is satisfied that danger exists to the security of India or to any part of its territory from war or external aggression or *internal disturbance, actual or impending*. There have been several occasions when the centre's rule has been imposed in different states for some period and later lifted after normal conditions were restored.

In regard to the police function, the union government has its own contingent of the Central Reserve Police which can be used in any state at the latter's request or in order to protect the central property in a state even without the concerned state's approval. For example, in 1970, in the violence-ridden state of West Bengal, the Government of India deployed contingents of the Central Reserve Police to protect one of its giant steel mills situated in the state, even though the militant Communist faction of the West Bengal government objected to that arrangement, claiming that the maintenance of public order was an exclusive responsibility of the state and that deploying the Central Reserve Police without the concurrence of the state government was against the provisions of the Indian Constitution. The central government, however, did not oblige the state government. This is only one example which shows that strains and stresses do exist in the union-state relations in India.

For most of the subjects of the Concurrent List and even of the State List, there are union ministries, departments, advisory bodies, councils etc. which help in bringing about desirable uniformity and national standards of services, but it is in the sphere of planned socio-economic development that the centre's role and control has been increasing. Moreover, there exists central legislation or even "model laws" on most of the subjects mentioned in the Concurrent List.

The U. S. Constitution puts certain limitations on the powers of the states, but because of the extensive scope of using the residuary powers, the states are generally not hampered in under-

taking functions necessary for their 'survival' and legitimate growth. the prime source of such a mandate to state governments is the American Constitution itself.

For quite some time now, the American national scene has been in a melting pot. As an upshot of the growing industrialization, urbanization, population growth and affluence, there have been tremendous new demands on the state governments and on their local government agencies. With the widening of the range of state activities and the expansion of the previously existing functions, a horizontal and vertical growth has taken place in the state administrative machinery. The pressures on the states have been constantly growing primarily because of the federal government's "demonstration effect" on the one hand, and the operational shortcomings of the local government on the other. The American states appear to be doing some part of almost everything, but the 'whole' of very few things. Their operation has linkages with several other administrative levels. Moreover, the states have been increasingly using direct administrative methods for securing social objectives rather than just relying on indirect encouragements and deterrents. Their regulatory role has increased; they have supplemented private and local government functions, as have also moved to provide previously non-existent services and facilities which are designed to achieve at least minimum standards of health, shelter, institutional care, recreational opportunities, occupational training and mobility.

This does not mean, however, that the emphasis has drastically changed in regard to the state services. In financial terms, a far greater proportion of state funds are spent on 'services' than on police and other regulatory functions. As early as 1965, education, welfare, and the highway expenditure alone accounted for 73.4 percent of the total state expenditure²⁴. Robert E. Crew Jr. has observed that by and large states are 'providers of services' as opposed to 'regulators'²⁵. Nevertheless, the traditional functions of state governments have also increased in scope and range. Law making, law enforcement and revenue administration are now naturally affected by a growing network of federal laws and regulations and by the operations of local government bodies.

This has made the states, as Mansfield has observed, "middlemen", which are "in the middle, competing with national and local governments for power and politically interlocked with both."²⁶

In the U. S., functions of the state governments are so enormous in range and number that it would be a stupendous task to enlist in details all the items which are covered in state budgets or even to enumerate the designations of various state administrative officers. However, generally speaking, all the American states do perform some common functions. The list of such functions would include subjects such as aeronautics, agriculture, air pollution control, archives, public assistance, banking, blind welfare, civil defence, commerce, conservation of natural resources, registering and licensing of corporations, corrections, citizenship, economic and industrial development, education—including vocational education, employment security, fire control, fish and game, food and drugs, forestry, geology, health, highways, housing, insurance, labour administration and labour relations, liquor control, libraries, maternal and child welfare, community mental health, mental retardation, licensing and registration of motor vehicles, oil and gas, old age assistance, parks, parole and probation, planning, police, and highway patrol, port authority, public utility and railroad regulation, planning, public works, real estate regulation, securities, tourism, veterans programme, water pollution control, water resources, welfare and workmen's compensation. This is besides the traditionally called "staff" and "auxiliary" type of functions which the state governments undertake; for instance : financial administration, general administration, accounting, auditing, budgeting, taxation (including corporation tax, fuel tax, income tax, motor vehicles tax, sales and use tax), court administration, data processing, equalization of assessments, coordination of intergovernmental relations, personnel administration, purchasing, treasury functions, etc..²⁷ This long and impressive list, however, does not indicate the degree of the delegation of functions to the local government agencies, nor does it tell us about the way in which the states perform the role of "middlemen." Nevertheless, the list does underline a major point that the state governments are actually concerned with a multitude of functions and that they have immeasurable direct and indirect influences on practically every facet of the lives of its people.

✓ Evidently, there are some functions which are performed by the American states, but not by their Indian counterparts. Such functions relate to : aeronautics, banking, registering and licensing of corporations, citizenship, geology, oil and gas, railroad, veterans programme etc.. Instead, these functions fall under the Union List of the Indian Constitution. Notwithstanding this constitutional arrangement, Indian states now appear to have become more directly involved in the process of overall national development than their American counterparts. This may be primarily attributed to the challenge of socio-economic planning.

THE FEDERAL-STATE RELATIONSHIP

✓ In India, the experiment of federalism was started during the British rule, and more particularly through the enactment of the Government of India Act 1935, which in turn, provided the base for the incorporation of federal features into the Indian Constitution. Thus, the idea of federalism was conceived in India at a time when the economics of large scale industrialisation and the politics of welfare had not yet become prominent features of Indian society. Now, however, the process of economic development and the growth of a welfare state have added new dimensions to the Indian federal system. These processes have generated problems which transcend local boundaries and even assume overall national importance. All this has resulted in the evolution of a sort of "cooperative federalism" in which the centre has become stronger because of its extractive and distributive capabilities in regard to social and economic development.

The administrative powers of the union government generally extend to those matters over which it has the competence to make laws. Likewise, the administrative authority of a state is generally co-terminus with its legislative jurisdiction. However, the executive power of the states in regard to the Concurrent field of legislation is limited by "the executive power expressly conferred by the Constitution or by any law made by Parliament, upon the Union or authorities thereof."²⁸ While normally the executive power in respect of subjects enumerated in the Concurrent List is vested in the states, this constitutional provision empowers the Indian Parlia-

ment to legislate in the Concurrent field or to authorize the central government to issue necessary directives to the state governments on Concurrent subjects. Such an arrangement of making the centre stronger in the realm of Concurrent subjects has a precedent in Australia where the centre is competent to assume powers to administer a law in respect of a Concurrent field. The Constitution-makers of India adopted this provision on the ground that some subjects included in the Concurrent List were so wide in scope and crucial in importance that the centre should have the power to intervene, in case the Parliament-made laws on such subjects were unfaithfully or badly executed by the state governments.

The tilt in favour of centralization in the Indian federalism becomes possible through several means. First, the centre controls the states by issuing them directives in respect of the administration of any subject included in the Union and the Concurrent lists²⁹. Second, the centre exercises considerable influence over the so-called "exclusively" state spheres like education and health. This state of affairs has come about not through any manipulation of the provisions of Constitution, or through resort to any of its special provisions, but primarily owing to the massive financial contribution of the centre for the state plans. There is much substance in the statement of Karl Loewenstein that economic planning is the D.D.T. of federalism. The Indian experience is in tune with the general belief that federalism suffers most in a system of planning. This contention is based on the premise that planning introduces a powerful centralist direction in centre-state relations which federalism seeks to prevent. Thus, in essence, many functions in India which are apparently performed by states are in fact guided by the central policy and sub-policy directives.

In conformity with the provisions of Article 282 of the Indian Constitution, the centre provides huge sums of tied grants to states for the financing of the state plans, and consequently, therefore, a considerable measure of central control ensues. For an essentially state subject like education, there operates in India the sprawling Ministry of Education at the centre, with its numerous attached and subordinate offices. The Ministry is the main formulator of the national educational policy, while the states are obliged to follow

such policy if at all they wish to take advantage of the tied grants provided by the Union government. The University Grants Commission at the center is the main body to "decide" whether any new university will be established or a new department in any university will be set up or even a new post of a lecturer will be created in a university. This is primarily because of the fact that no Indian state government appears to be solvent enough to run its higher educational institutions entirely on its own finances.

✓ Similarly, the giant Department of Health and Family Planning is the main authority to initiate new policies and programmes in the sphere of health, which incidentally happens to be a state subject. The multi-million rupee "family planning" programme in India has the initiative and support of the centre, and the states vie with one another for obtaining increasingly greater central grants on this account. It only shows how extra-constitutional functions sometimes become more important than the written constitutional provisions. Recently, there have been even suggestions from several quarters in India that a function like 'education' should be transferred from the State List to the Concurrent List. Moreover, some concrete suggestions have also been presented for the creation of an All India Health Service and an All India Education Service to operate under the broad supervision of the union government. In addition, there have been suggestions from responsible circles for the creation of inter-state irrigation administrative agencies and for a national power grid to tap in a coordinated fashion the irrigation and power potential of the country.

Since economic and social planning is a Concurrent subject in the Indian Constitution, it gives the centre an edge over the states in matters of performing, directly or indirectly, almost all "crucial" socio-economic functions. Nevertheless, the center has to depend on the states for the implementation of plan programmes and for protecting the interests of central public enterprises located in the states.

The third and the final strong factor which provides greater and effective controlling authority to the center over state programmes is the working of various All India Services, whose

members, though appointed by the union government, work on practically all higher administrative posts in all the Indian states.

It should nonetheless be understood that control alone is not the prime factor in determining the equation of union-state relations in India; rather, much of this relationship depends upon the administrative cooperation between the two levels. In fact, wide-scale administrative cooperation is a noteworthy development in the operation of Indian federalism. Here, some instances may be pertinent. For the execution of land reclamation and development schemes under the plans, the central and state tractor organizations function in close cooperation with each other; the central inspectors help the states in enforcing the provisions of the Drugs Act; and the union and state organizations work harmoniously in carrying out the Community Development Programme. These examples underline the fact that in a country dedicated to the ideals of a welfare state, the jurisdictional exclusiveness of the centre and the states tends to be largely blurred by a host of problems, the solutions of which demand collective decisions and concerted action.

The Indian Constitution contains an interesting provision that any extra expenditure incurred by a state government in carrying out any central directives in respect of construction and maintenance of the means of communication of national or military importance, or of the protection of railways, shall be borne by the union government, the amount being mutually agreed upon. In case of a failure to arrive at an agreement on this point, the amount is to be determined by an arbitrator appointed by the Chief Justice of India.

The Indian Constitution does not provide for any rigid functional demarcation of the administrative machinery of the union and the states. State agencies are increasingly being used by the centre for its own administrative purposes. For instance, railways and ports are union subjects, but are protected by the state government. Likewise, development, construction, and maintenance of all "national highways" is a union responsibility, but instead of carrying it through its own agencies, the union

government depends upon state governments for the needful. Of course, the union government supervises this work through the Road Wing of the Ministry of Transport and by attaching an Engineer-Liaison officer to each state. In a federal structure like India, the extent of the centre's dependence on the states, whether in matter of securing relevant information or in obtaining advice is immense. For instance, in West Bengal, the state home department transacts business relating to 36 union subjects, while the state finance department deals with 27 such subjects³⁰.

The Indian Constitution also arms the union government with directive power with regard to a few specific subjects. Article 257(2) of the Constitution says : "The executive power of the Union shall also extend to the giving of directives to a state as to the construction and maintenance of means of communication declared in the direction to be of national or military importance." Since 1962, when India had a war with China, this provision has been used extensively, and the state governments, under the central direction, have undertaken several functions mentioned in the Union List.

In regard to police functions, item 80 of the Union List gives to the centre the task of providing "Extension of the power and jurisdiction of members of a police force belonging to any State or any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside the State without the consent of the Government of the State in which such area is situated." Similarly, the centre has the authority for the "extension of the powers and jurisdiction of the members of a police force belonging to any State to railway areas outside the State." Thus, the Railway Police which comprises of the police personnel from several states, protects railways—a central property, but only under the regulation of the union government. The union government is also empowered to issue directives to a state in regard to the measures needed to be taken for the protection of railways within a state.³¹ Further, it has happened several times that a riot-torn state has requested, for reasons of safety, the central government not to ply railways in its jurisdiction during a particular period of crisis.

It may be mentioned that the Indian Constitution provides a framework of voluntary cooperation among the governing units. As Article 268(1) of the Constitution states : "Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to the Government or to its officers functions in relation to any matter to which the executive power of the Union extends". Any extra cost incurred by the state in the discharge of such functions would, however, be borne by the union. Many specific laws, like the Essential Commodities Act, authorise the union government to bestow powers upon and assign responsibilities to the state governments.

Further, the Constitution (Seventh Amendment) Act, 1956 had added to the Constitution, Article 258 (A) which empowers the states to delegate functions to the union with the consent of the latter. Thus the Constitution of India provides for inter-level delegation of functions, making the operation of Indian federalism adequately flexible. Such voluntary assumption of functions of one layer of authority by the other occurs even in the U. S. A. The national wage and hour legislation, for instance, authorises the administrators of this law to proceed through the appropriate state department with its consent for conducting factory inspections required by the law ; the state concerned is paid for its service. Almost a similar example can be found from the Canadian case. In six of the nine provinces of Canada, the enforcement of provincial statutes in relation to police is entrusted to the Royal Canadian Mounted Police under agreements between the Dominion and the provinces concerned; the provinces reimburse the Dominion for the services rendered in enforcing the provincial statute.

Even in a traditional federation such as the U. S., the use of a state as an administrative agent of the centre coupled with appropriate administrative control over it is not an uncommon feature. During the second World War, the federal government used the state officials for administering conscription, rationing, price control etc. Similarly, through the use of its spending powers, the American federal government exerts immense administrative control and supervision over the states.

The traditional version of the U. S. federalism can be seen in the words of Lord Bryce, who observed :

The characteristic feature and special interest of the American Union is that it shows us two governments covering the same ground, yet distinct and separate in their action.³²

Conversely, James W. Fesler believes that in the United States, one cannot find comfort in the concept of "dual federalism" whereby the national government was supposedly responsible for one bundle of functions and the state governments for another bundle of quite different functions.³³ Likewise, the U. S. Commission on Intergovernmental Relations observed :

The National Government and the States should be regarded not as competitors for authority but as two levels of government cooperating or complementing each other in meeting the growing demands on both.³⁴

The federal system of government, whether Indian or American, can remain in a state of proper balance only when each level is sufficiently effective as well as adequately responsible. Responsibility, in this sense, implies restraint coupled with action. The states have responsibilities to do efficiently what lies within their competence as also to refrain from actions which might injure the nation. Similarly, the national government has responsibilities to perform, according to its constitutional authority, those functions which the states cannot undertake. It has however, to respect the autonomy of states by increasing the latter's capabilities to perform their respective functions,. Thus, in a sound federal polity, the strengthening of state and local governments is likely to add to the effectiveness of the national government.

The issue of intergovernmental relations has increasingly gained importance in the U. S. This concern is reflected in the creation of special agencies to deal with issues concerning this problematic area. The recently created Office of Intergovernmental Relations in the Executive Office of the President is a prime example

of such institutional innovations. In all the American states, full time or part-time Coordinators for Federal-State Relations are working. In Kansas, Delaware, Maine, Massachusetts, Oklahoma, South Carolina and some other states, there are full-time officers dealing with the issues and problems concerning inter-governmental relations.³⁵

THE LOCAL LEVEL

As already noted, the U.S. local scene is characterised by a multitude of governments—counties, townships, incorporated municipalities, and special districts—with overlapping boundaries. Special districts like the school districts, the irrigation districts, and the sanitary districts are the most numerous category. Townships, which because of historical reasons are confined only to sixteen states and that too mainly in the rural and incorporated suburban areas, are subdivisions of counties. Their functions are quite limited, having to do only with rural schools and local road maintenance.

County and municipal governments are general purpose units, and have the most direct and frequent contact with the largest number of people. Although the particular environment of a unit determines the nature and scope of its functions, yet some traditional functions are common to all local jurisdictions. A few of the important functions of counties include the administration of justice —by sheriffs, coroners, prosecutors, judges, juries—and the registry of legal documents such as deeds, mortgage, and wills; records of births and deaths; the conduct of elections; public health officers and hospitals; the maintenance and improvements of county roads; the provision and supervision of schools ; and the relief of the poor. However, because of financial limitations, the performance of counties is generally low. It is only the counties in well-to-do suburban areas that have improved their capabilities of raising revenue and of performing services.

City and town governments have a wider range of functions than the county governments, and they perform their activities on a more intensive, specialized, and expensive scale. Growth of urbanization has presented a big challenge to the effectiveness of

such bodies. Contemporary social problems like desegregation of racial and ethnic groups, education and housing for the underprivileged, birth control, juvenile delinquency, urban renewal, mass transportation facilities etc. have put greater strains and stresses on these essentially urban government bodies.

In cities, the range of local government functions is extremely wide. Even a small city like Lawrence (Kansas) having a population of around 45,000 (including students) is engaged in functions concerning public safety, police, parking control, fire-control, building inspection, engineering, street maintenance, airport maintenance, property maintenance, sanitation, parks, forestry, recreation, cemetery, levee maintenance, water production and distribution, sewage treatment, health, animal control, library, and hospital.³⁶ A medium city like Berkley (California), with an estimated population of 122,000, is involved in functions relating to aging, maternal and child health, vital statistics, nutrition, health, education, school health, environmental sanitation, mental health, library facilities, planning, zoning, police (patrol, traffic, animal control, detective, juvenile), street construction, sanitary sewer construction and maintenance, communication, street lighting, street maintenance, street cleaning, storm drain maintenance, recreation, forestry, adult training (EEO), social planning (youth councils, senior citizen centres, etc.), property management, fire fighting and prevention, civil defence, and other miscellaneous functions.³⁷ The extensiveness and intensiveness of functions of a big city like New York are too colossal to be defined in detail.

Item four in the State List of the Indian Constitution pertains to local government. Under its provision, states have been given authority for organizing municipal corporations, improvement trusts, district boards, mining settlement authorities, and other local authorities for the purpose of local self government and administration. Thus, the state governments in India, as in the U. S., have the full authority and responsibility for the creation and maintenance of local institutions. Naturally, this creates considerable diversity in the patterns of local government. However, in India, an optimum unity in the rural local governmental sphere has been achieved by following a model pattern of institutionalisation as suggested by

the Balwantrai Mehta Committee of 1957. Most of the Indian states have their rural local government on the system of Panchayati Raj, with little or no variation from the Balwantrai Mehta model. Conversely, in the field of urban local government, there does not exist any uniform structure among various states, though some general features of such bodies are common among them.

Before we dwell upon the lower level of rural and municipal bodies, it would be pertinent to restate the fact that the district administration plays a crucial role in the Indian administrative framework. Under the British rule, the whole of India was divided into various provinces which, in turn, were divided into administrative districts, and the same pattern with slight modifications, continues to exist even today.

The head of the district, known as the Collector and District Magistrate or as the Deputy Commissioner and District Magistrate is virtually the kingpin of the district administrative system. Such an officer at the district level has been a common feature in several of the countries which have remained under the British colonial administration.

In India, the District Officer performs the following broad functions :

- (1) To maintain law and order in the district. For this, he takes the help of the District Superintendent of Police;
- (2) To collect revenue in the district ;
- (3) To coordinate the functions of the Panchayati Raj institutions in matters of development administration (except in Gujarat and Maharashtra).
- (4) To supervise the functioning of local government agencies —urban and rural—in the district;
- (5) To conduct elections for the local, state, and central institutions ;

- (6) To administer justice at the district level; and
- (7) To undertake sundry regulatory work, like rationing, in the district.³⁸

The Collector acts as the representative of the state government in various capacities, though for the purpose of conducting elections to the central and the state legislative bodies, he acts as a representative of the union government. Further, in matters of administering justice, he has to act under the broad supervision of the state high court. To a common man in India, the nearest effective governmental institution for the redress of grievances is the office of the Collector. In fact, the District Officer is overburdened with an enormous amount of multifunctional responsibilities. It is in this context that Hugh Tinker has remarked that "The District Officer is the bottleneck of the governmental process : loaded with new duties, compelled to fill a quasi-political role (like the French Prefect), yet still burdened with all his former responsibilities, he is now expected to coordinate and inspire development."³⁹

Despite the pattern variations in the Panchayati Raj set-up in various states, Panchayats, generally speaking, have two-fold functions to perform, those relating to civic amenities and, others pertaining to development. Under the first rubic, which involves "compulsory" functions, the tasks performed concern (1) the provision of water supply for domestic use; (ii) sanitation; (iii) maintenance of public streets, drains, tanks, etc.; (iv) lighting of the village streets; (v) land management; (vi) maintenance of records relating to cattle; (vii) relief of distress, (viii) maintenance of roads, culverts, bridges, drains etc.; (ix) supervision of primary schools; (x) welfare of backward classes; and (xi) collection and maintenance of statistics.

The developmental functions relating to subjects such as agriculture, animal husbandry, local communications, cooperation, minor irrigation works, village industries, primary education, etc. are largely the responsibility of the Panchayat Samitis, which operate at the development block level. Thus, Panchayats act as agents of Panchayat Samitis in executing developmental schemes at

the village level. At the apex of the Panchayati Raj set up is the institution of Zila Parishad, which has supervisory, financial, planning, and coordinating powers over Panchayat Samitis.

In a state such as Maharashtra, it is the Zila Parishad which performs the main developmental functions, while a Panchayat Samiti supervises and coordinates the work of Panchayats. Though emphasis on levels might differ, the significant point is that rural local agencies perform all important functions relating to development and to the provision of basic civic amenities.⁴⁰

As noted above, the rural local government agencies in India derive their powers from state legislation; they are guided by the state administrative policies; supervised by a state government functionary like the District Officer; assisted and advised by the subject-specialists of the state government working in the local area; and more importantly, they have to depend heavily on state governments for finances. Because of these and other reasons, as also because of the nascent stage of the development of democratic rural bodies, a tremendous influence of the state government is exerted on almost every activity of these agencies. It cannot be denied that in the field of state-local relations, there has occurred a centralizing trend during the past several years, particularly since the rural agencies have demonstrated their inability to carry on developmental functions effectively, all on their own.

The functions of Indian municipal bodies are spelled out in the state municipal acts and in other enactments. Among these functions, some are obligatory, while others are optional. Important obligatory functions relate to construction and maintenance of roads, conservancy, lighting, abatement of public nuisance, regulation of dangerous and offensive trades, water supply, drainage, hospitals and dispensaries, vaccination, public markets, sanitation, education, fire protection, etc.. Optional functions relate generally to laying out new streets, reclamation of unhealthy localities, acquisition of land, public parks, gardens, burial and burial grounds, museums, lunatic asylums, rest-houses, poor houses, dairies, baths, fairs, exhibitions, public utilities like water, electricity, and transport. The optional, or additional functions however, depend on the

administrative and financial capacity of particular municipal bodies as also upon the extent to which a state government is willing to delegate powers to the lower level.

In contrast to the American pattern, Indian municipalities do not have their own police. It is the state police which works in the cities as well as in rural areas. Further, the municipal bodies of smaller cities, because of insufficient finances, are not able to perform functions such as the efficient provision of education and health. Consequently, even though in practically all cities, state hospitals and municipal dispensaries co-exist, it is the former that the people prefer. The state governments have, however, not disturbed the exclusive jurisdiction of municipal bodies in many functional spheres. For instance, the field of primary education has been left to the municipalities, even though private organizations can also start primary schools, and the state governments may provide grants to such private institutions. On the other hand, the functions of electricity generation and distribution are performed largely by semi-autonomous state electricity boards, which exist practically in every state.

It is noteworthy that several Indian cities, besides having municipal councils, have some other autonomous bodies for the performance of city development functions. Among these semi-autonomous bodies are improvement trusts—for city planning and development—and port trusts for the development of the port cities. Further, a cantonment may also cover large area within city limits. These areas, quite important during the British days, are now under the control of the defense authorities, which have only limited responsibility towards municipal bodies.

It may be mentioned that with the growth of urbanization in India, urban improvement trusts are increasingly engaged in the task of bringing about balanced and planned development of the cities, and they work in close cooperation with the town planning departments of their respective state governments. This arrangement has further led to the reduction in the functions of the traditional municipal institutions.

STATE-LOCAL CONSOIATION : THE U. S.

In the U. S., the area of authority of states over their local bodies is considerably wide. The powers reserved to states under the American Constitution are manifestly plenary, except for the federal limitations and restrictions imposed by the states' own constitutions. Harvey C. Mansfield rightly claims that "in theory, State-local relations are not federal."⁴¹ Every local unit has its legal existence and powers in the state enactments. State constitutions, laws, and regulations not only establish local governments, but also place limits upon, furnish aid to, and exercise supervision over such bodies in a great variety of forms.

There are a number of state departments which have as their principal obligations the performance of state-wide services, e. g. highway construction and maintenance, state police, public health, public welfare institutions, penal institutions, the conservation of natural resources, higher education through state universities and colleges, the regulation of commerce, utilities, banks, insurance, companies, the sale of securities, and the licensing and regulation of professions. State departments performing these functions tend to complement the services of the local units by taking over the state-wide, top-level, and more expensive type of services that many local units cannot afford, financially or administratively, to provide. The state units keep in fairly close and continuous touch with the local authorities, since in subjects like health, highways, law enforcement, and welfare, continuous coordination and cooperation between these two levels becomes essential.

There is another group of state departments which has, as its principal, if not the sole function, the improvement of the services of local authorities through stimulation, education, assistance, and information, as also through supervision over local bodies. Essentially, this is also, in part, the role of the service departments referred to above. For example, a state health department has a double function to perform, viz. to render certain health services directly, and secondly, to see that the local authorities engaged in health administration carry out their tasks effectively.

Besides, the American states today perform numerous other

functions, such as the supervision and equalization of the property assessment made by local assessors ; the supervision of primary and secondary education ; inspection of local water supplies and sanitary facilities ; inspection and approval of local plans for schools, water supplies, sewage systems, jails, hospitals, homes for the aged, and other local facilities and institutions; the examination and certification of teachers, social workers, engineers, lawyers, doctors, and other professional workers employed by local governments ; collection, analysis and publication of local financial data, and the audit of local accounts ; inspection of public buildings for fire safety ; assistance in the consolidation and reorganization of school districts ; the recruitment of suitable personnel for local government appointments ; and supplying of information to local governments on a wide variety of subjects. This list could easily be enlarged. In addition, the financial assistance extended by states to local governments is instrumental in providing stimulus to the local authorities to extend better services.⁴²

As early as 1946, the O'Conor Committee had observed that the growth of state and local activities in the U.S. had been accompanied by the unmistakable growth in state administrative supervision over local governments. The Committee recommended that local administration under state supervision should be preferred to the transferring of functions directly to state administration. For achieving effective supervision, the Committee admonished the states to avoid rigid legislative prescription of administrative activities, increase the calibre of their supervisory personnel, provide a unified supervision within a given field, and codify and simplify laws pertaining to local governments.⁴³ Although, most of the recommendations of the Committee are valid even today, its basic theme deserves to be underlined : *Local Government should not be devoid of its autonomy, though autonomy should not go without effective supervision.* In this context, Harvey Walker had observed that "What is needed is not freedom from control, but more intelligent exercise of it—better legislatures, better laws, and more expert and less political administration on the part of the states." He also opined that the growth of the immense urban agglomeration into metropolitan areas requires "standardization" even at expense of "so called autonomy". Walker has advised the state

constitution makers to use every ounce of ingenuity they possess to "reconcile the general public interest with the local interest."⁴⁴

THE FEDERAL-LOCAL LINKAGE

Direct federal assistance to local governments is a relatively new but important factor in the equation of intergovernmental relations in the U. S. This device has not been introduced into the Indian federal system, though in the U S., its use has been fairly substantial.

A notable index of the growing federal role in urban affairs in the U. S. is the Demonstration Cities and Metropolitan Development Act, 1966, which President Johnson signed after months of hearing in the second session of the 89th Congress. The Act focuses squarely upon key urban problems, blighted areas, housing, job and income opportunities, welfare, education, public health, crime and delinquency, recreation and cultural opportunities, and transportation.⁴⁵ Even in fiscal years 1968 and 1969—the initial years of the Act's implementation—the federal government had appropriated 412 million dollars and 500 million dollars respectively, on these programmes.

In the U. S., the extent of federal expertise in various local programmes is considerable. This is different from the Indian pattern, where the union government does not deal directly with local agencies and invariably keeps its relationship only with the state governments, wherever local administrative matters are concerned. Of course, the center's tied grants to state governments oblige the latter to follow the broad national directives in pursuing specific programmes carried out in local bodies.

In the U. S., localities take up important formal responsibilities in the development of national programmes for atomic energy, civil defence, the regulation of commerce, and protection of purity in food and drugs. In India, it is usually the state officers or the district officers and not the local government agencies who participate in such federal programmes.

In the U. S. , among the existing units of local government,

the counties are made most use of by the federal government, since they (counties) cover practically the whole country and are sufficiently large in size in order to be effective. The counties are the units which have been principally favoured for administering federal programmes regarding rural secondary roads, social welfare, agricultural extension work, agricultural action programmes, and rural library work. Next to counties, in the federal preference, come larger cities. The federal government uses cities for functions such as public housing, urban planning, slum clearance, urban renewal, construction and maintenance of port facilities, airports, and federal office buildings, as well as for assistance in building urban connections for the main state highways. According to William Anderson, it is partly for these federal preferences that the financial and administrative importance of the counties and large cities have considerably increased in recent years. He observes that the smaller units continue to perform useful functions for strictly local purposes, but they languish from a failure to find a larger usefulness on the national or even on the state-wide scene.⁴⁶

FEDERAL GOVERNMENT LOCALLY

In the twentieth century America, there has been a growth of what one scholar has called "federal government locally," i. e. administration of federal programmes by federal officials.⁴⁷ There are a large number of federal offices that deal directly with citizens rather than through state intermediaries. These offices include the Federal Bureau of Investigation, the Veterans Administration, and the agencies for soil conservation. Besides, a public enterprise such as the Post Office bears a similar character. In India as well, numerous national public enterprises (e. g. railways, post office, radio) bring the union government directly in contact with the citizen, and in this limited context, the concept of "federal government locally" applies more extensively to the Indian case than to the American.

THE MARBLE CAKE

In the American pattern, a multitude of governmental levels exist, and usually a citizen comes under the jurisdiction of four or more governmental authorities. This, of course, is besides the state

and national governments. The biggest problem in this realm is that there is no neat division of functions among the different governmental units. Morton Grodzins claims that at a close look, it would appear that virtually all governments are involved in virtually all functions.⁴⁸ Functions of the American government are indeed shared functions. To Grodzins, the American system of government, as it operates, is "not a layer cake at all. It is not three layers of government separated by a sticky substance or anything else. Operationally, it is a marble cake, or what the British call a rainbow cake."⁴⁹

The joint sharing of a function is easily illustrated in the field of public welfare. The federal, state, and local governments together administer public assistance programme; the federal government alone administers the old age insurance programmes, commonly known as "social security"; the federal government and the states (without the local government, but with the assistance of local business groups) administer employment security; the states and local governments (without the federal government) handle general assistance; and to complete the circle of possible combinations, all three branches of government together administer child welfare services. It may also be noted in passing that President Nixon's recent proposal on "Family Assistance Programme" is also based on the premise of joint sharing of governmental functions at different levels.⁵⁰

It is notable that even the existing general assistance programmes, administered by the states and localities are considerably influenced by the federal government's standards of professional conduct. Conversely, in a welfare-field of the so-called exclusive federal concern, viz., hospital care for military veterans, the states and localities exercise substantial controlling power over many fundamental sub-policy arenas.

To provide another illustration of a "marble cake," we may take the function of administering education.⁵¹ The general contention and belief in the U. S. is that grade and high school education is uniquely, even exclusively, a local responsibility. Almost half of all local government units in the United States are school districts.

However, this impressive number of 37,000 school districts does not mean that the educational function, even in the grade and high schools, is in any sense, an exclusive function of such districts. In several states, local districts are largely administrative arms of the state departments of education, and thus the educational function is primarily a state responsibility. State financial aid, state teacher certification, state prescription of textbooks, and state inspection of performance in areas as diverse as building maintenance and the calibre of Latin instruction have tended to make local districts depend to an ever increasing degree on state governments. Besides, the school districts have intricate as well as diverse relationships with county and city governments. The latter, for example, often act as tax-levying and tax-collecting agencies for the districts; they are also responsible for certifying that the standards of health and safety are maintained in schools. In addition, the city governments, whenever necessary, provide special police protection to students.

The role of the federal government has its own efficacy in the realm of education. The United States Office of Education provides considerable technical assistance to educational institutions. For instance, the federal milk and school lunch programme provides food and milk at low cost to children in all the fifty states; federal surpluses provide many essentials of school equipment; and federal aid to vocational education programmes make possible the employment of special teachers. In many areas "affected" by the federal government installations, federal funds are granted for the purpose of constructing and maintaining school buildings and for contributing to general support. Federal aid provides funds for the training of high school teachers in science, mathematics, and foreign languages; for purchasing equipment and books for instruction in these fields; for managing the test and guidance programmes designed to identify superior students; and for the general strengthening of the state departments of education.

The intricacies of vertical and horizontal relationships would appear to be more complex when we consider the mutual political relationships existing among the leaders of school districts, cities, counties, states, and the nation as a whole. In fact, it is the political relationship which basically determines the level of support that a

school would receive. The complexity would seem to increase further if an account is taken of informal group-ties existing among teachers, administrators and other specialists. This would make one important point clear : grade and high school education is not a function of local school districts alone. At the post-high school stage, the collective influence of private, quasi-private, municipal, state and federally financed programmes and institutions on the educational framework is tremendous. The role of the federal government in the educational system has increased since the mid-nineteen sixties. The School Aid Act of 1965 and the Elementary and Secondary Education Act of the same year have added new dimensions to the process of federal participation in school programmes. The latter legislation was largely responsible for pushing the federal educational grants from 610 million dollars in 1965 to 2.5 billion dollars in 1968⁵². In the early 1970, Mr. Nixon had proposed the establishment of a National Student Loan Association and a National Foundation of Higher Education. The second is patterned after the National Science Foundation, and distributes funds directly to those private and public institutions which come up with interesting innovations in the areas of curriculum and other academic programmes⁵³. It should have been clear by now that the educational function is not a neatly carved out responsibility of any particular "level" of government. In fact, It is performed through the joint efforts of several governments operating at different levels.

An interesting example of a "marble cake" functionary has been given by Morton Grodzins. He refers to a health officer, styled as a "sanitarian" of a rural county of a border state. The sanitarian is appointed by the state under merit standards established by the federal funds, the county provides him with an office and office amenities and also pays a portion of his expenses, and the largest city in the county also contributes to his salary and office by virtue of his appointment as a city plumbing inspector. Naturally, it becomes difficult, rather impossible, to tell from moment to moment, as to under which governmental hat the sanitarian is operating. His work of inspecting the purity of food is carried out under federal standards; but he is enforcing state laws while inspecting commodities that have not been

transacted in the inter-state commerce; and somehow, he also acts under state authority when inspecting milk coming into the county from the producing areas across the state border. The "sanitarian" is a federal officer when impounding impure drugs shipped from a neighbouring state; a federal-state officer when distributing typhoid immunization serum; a state-local officer when inspecting the city's water supply; and (to complete the circle) a local officer when insisting that the city butchers adopt more hygienic methods of handling their garbage. Nonetheless, he cannot and does not think of himself as acting in separate capacities. All business in the country that concerns public health and sanitation is essentially his business. Paid largely from federal funds, he does not find it strange to attend meetings of the city council in order to give expert advice on matters ranging from rotten apples to rabbies control. He is even deputized as member of both the city and county police forces.⁵⁴

Though the example of the sanitarian might represent an extreme case of shared functioning, it does drive home the point that there are practically no neatly parcelled out functions among different levels of government.

On the other hand, the Indian Collector and District Magistrate may also be considered as an excellent example of a powerful and effective "marble cake" functionary.

It is noteworthy that the governments involved in several overlapping functions have added new dimensions to the crucial issue of inter-governmental relations. The lack of congruence between area and function complicates further the already serious administrative problems. James Fesler's idea of conflict between area and function underlines the paradox of such an arrangement of overlapping.⁵⁵ This situation greatly complicates the task of the citizen. Problems like air pollution and slum clearance involve several sets of laws—local, state, and federal—as well as numerous administrative agencies, each with its own body of regulations. Diffuseness and obscurity of the points of influence and the centres of decision make the citizen confused as to where and to whom should he go for redress of his grievances.

As already mentioned, the responsibility factor in the inter-governmental relations is extremely crucial. Governor Nelson Rockefeller of New York has put this issue in right perspective when he observes:

The important consideration in the relationship between the three major levels of government is that each level shall fully meet its own responsibilities and not pass them on to another.⁵⁶

An upshot of the proliferation of agencies and schemes at the federal level has been an overlapping of programmes, despite conscious efforts made towards achieving administrative coordination. For instance, the Manpower Development and Training Act, the Vocational Rehabilitation Act, the Vocational Education Act, and the Elementary and Secondary Education Act are administered by different agencies, even when all these legislations aim at similar objectives. The same observation applies to some anti-poverty and other programmes authorized by the Public Works and Economic Development Act and by the Appalachian Regional Development Act.

Loans and grants for water pollution abatement facilities provide another example of functional duplication. The major programme for grants on individual and multi-community sewage-treatment works-construction under the Water Quality Act, is administered by the Department of Interior. Interestingly, grants and loans are also available for similar projects under the Public Works and Economic Development Act and the Appalachian Regional Development Act. Public Law 89-240 amended the Consolidated Farmers Home Administration Act to authorize loans or insurance of loans for waste disposal facilities, as also grants for collection, treatment or disposal of wastes in rural areas. Further, Public Law 89-117 authorizes and amends authorization under the Housing Act to provide both loans and grants for sewer facilities. Nevertheless, to avoid duplication, it is being stressed that grants should be given on officially approved comprehensive state or local plans.⁵⁷

Obviously, the need is to mitigate duplication and wastage of

energies and resources, and thus bring about more cohesiveness and coordination in the governmental action. It is for this reason that Mr. Richard Nixon, in pursuit of establishing "The New Federalism", presented a budget for the fiscal year 1971 in which the most important philosophical premise was based on the rejection of the idea of federal domination over resource allocation. The underlying hope is to place heavier reliance on private initiative and on state and local governments with an increasing emphasis on intergovernmental cooperation and coordination. However, as of mid-1973, this programme has not been adopted by the U. S. Congress, primarily because of the resistance from the state governments.

A good amount of what has been observed in regard to the U. S. applies to Indian conditions as well, though the Indian "marble cake" has more distinct chunks of dark and light batter. For development functions, there exists considerable coordination between the federal and state governments on the one hand, and state and local governments on the other. Because of no direct relationship between the federal and the local governments in India, much of the confusion in the area of inter-governmental relations is avoided. A relative distinctness and specificity in regard to inter-governmental relations in the Indian Constitution makes federal-state relations in India less ambiguous than those in the U. S. It should, however, be noted that in India, a strong tendency of centralization is being witnessed since the emergence of the planning era. This tendency has been further perpetuated because of practically no serious challenge to the central government by the state governments, and almost no challenge coming from the local governments to the state governments. In addition, centralization of financial powers has led to centralization of decision making, though allowing, of course, a considerable degree of decentralization in decision-execution. However, with the passage of time and with the growing consciousness among state and local authorities for their "rights", the existing Indian federal structure might find it difficult to sustain the present state of "equilibrium".

The nineteen seventees will decide the future "structure" of federalism in the two greatest democracies in the world.

NOTES

1. *The Columbia Viking Encyclopedia*, Vol. II (New York : Viking Press, 1968), p. 1118.
2. The official Indian figure is—32, 80, 483 sq. k. m.. See, *India : A Reference Annual, 1973* (Delhi : Publications Division, Government of India, 1973), hereafter cited as *India, 1973*, p. 1.
3. According to 1971 Census, India's population was—548 million. See, *India 1973*, p. 5.
4. The estimate for 1970 was—205 million. See Richard Scammon, "1970 Census," in *New York Times Encyclopedic Almanac, 1970* (New York) : The New York Times, 1969) hereafter cited as *Almanac*, p. 203.
5. *Ibid.*, p. 801.
6. *Almanac*, p. 202.
7. In 1968, It was \$ 3412. *Ibid.*, p. 179.
8. Estimates for 1969-70, at current prices, put India's per-capita income at 589.3 rupees. *India 1973*, p. 154.
9. *Hammond Contemporary World Atlas* (Garden City, N. Y. : Doubleday, 1969), p. 4.
10. S. C. Sarkar (ed.), *Hindustan Year Book and Who's Who, 1970* (Calcutta : M. C. Sarkar and Sons, 1970), p. 21.
11. *Almanac*, p. 288.
12. *The Statesman Year Book* (London : Macmillan, 1963), p. 451.
13. *Almanac*, p. 250.
14. *India 1973*, p. 7.
15. Cf. *Almanac*, p. 801.
16. *Ibid.*, p. 222.
17. *Time*, 30 March, 1970, p. 48.
18. Panchayati Raj covers all the states with the exception of Kerala, Madhya Pradesh, Manipur, Meghalaya, Tripura, Jammu and Kashmir, Nagaland, and Bihar's 14 districts. *India 1973*, p. 229.
19. *India 1973*, p. 231.

20. William Anderson, Clara Penniman and Edward W. Weidner, *Government in Fifty States* (New York : Holt, Rinehart and Winston, 1966), p. 51.
21. Daniel R. Grant and H. C. Nixon, *State and Local Government in America* (Boston : Allyn and Bacon, Inc., 1963), p. 31.
22. For example, see, *The Budget of the United States Government, Fiscal 1970* (Washington : U. S. Government Printing Office, 1969), whole.
23. For a review of the fiscal 1971 budget priorities, see, among others, Allan L. Otten, "New Budget Priorities and Pressures," *The Wall Street Journal*, Feb. 3, 1970, p. 18.
24. U. S. Bureau of Census, *Summary of State Government Finances in 1965*, p. 7.
25. Robert E. Crew, Jr., "American State Political Systems," in his (ed.), *State Politics : Readings in Political Behaviour* (Balmont, California : Wadsworth Publishing Co., Inc., 1968), p. 22.
26. Harvey C. Mansfield, "Functions of State and Local Governments," in James W. Fesler, *The 50 States and Their Local Governments* (New York : Alfred A. Knopf, Inc., 1967), p. 108.
27. For a list of administrative officers classified by functions in 50 states, see, Council of State Governments, *State Administrative Officials Classified by Functions, Supplement II : The Book of the States*. (Chicago : Council of the State Governments, 1967), whole.
28. *The Constitution of India*, Article 162.
29. *Ibid.*, Articles 256 and 257.
30. Government of West Bengal, *Rules of Business* (Calcutta : Government Printing Press, 1968), pp. 21—23 and 25-27, cited in Amal Ray, *Inter-Governmental Relations in India* (Bombay : Asia Publishing House, 1966), p. 49.
31. *Constitution of India*, Article 257(3).
32. James Bryce, *The American Commonwealth*. Vol. I (New York : G. Putnam's Sons, 1959), p. 68.
33. See, James W. Fesler, "Approaches to the Understanding of Decentralization," *Journal of Politics*, XXVII (1965), 536-66.

34. U. S. Commission on Inter-governmental Relations, *A Report to the President for Transmittal to the Congress* (Washington, D. C. : U. S. Government Printing Office, June, 1955), cited in Joseph F. Zimmerman, *Readings in State and Local Government* (New York : Holt, Rinehart and Winston, Inc., 1964), p. 46.
35. See, Council of State Governments, *Op. cit.*, pp. 33-34.
36. Based on : City of Lawrence, *Annual Budget*, 1972.
37. Based on City of Berkley, California, *Adopted Budget* for the fiscal year 1971-72.
38. For a detailed account of the Collector's functions in various Indian states, see, *Indian Journal of Public Administration*, XI (July-Sept., 1965), whole.
39. Hugh Tinker, *Foundations of Local Self Government in India, Pakistan and Burma* (London, 1954), p. 364.
40. For a critical appraisal of the functioning of the Democratic Decentralization or Panchayati Raj, see, among others, Iqbal Narain, "Democratic Decentralization : The Idea, The Image, and the Reality," *Indian Journal of Public Administration*, IX (Jan.-March, 1963), 9-34; and M. V. Mathur and Iqbal Narain, *Panchayati Raj in India* (Bombay : Asia Publishing House, 1968).
41. Harvey C. Mansfield, *op. cit.*, p. 107.
42. See, William Anderson, *Inter-governmental Relations in Review*, Inter-governmental Relations in the U. S.—Research Monograph No. 10 (Minneapolis : the University of Minnesota Press, 1960).
43. Council of State Governments, *State Local Relations : Report of the Committee on State-Local Relations* (Chicago : Council of State Governments, 1946), pp. 11-55.
44. Harvey Walker, "Myths and Realities of the State Constitutional System," in W. Brooke Graves (ed.), *Major Problems in State Constitutional Revisions* (Chicago : Public Administration Service, 1960), p. 15.
45. See, "The Demonstration Cities and Metropolitan Development Act," *Public Law 89-754*, s. 3708, Nov. 3, 1966.

46. William Anderson, *op. cit.*, p. 115.
47. Paul N. Ylvisakar, *Inter-governmental Relations at the Grass Roots : A Study of Blue Earth County, Minnesota 1946*, Inter-governmental Relations in the U. S.—Research Monograph No. 7. (Minneapolis : The University of Minnesota Press, 1956), cited in Charles R. Adrian and Charles Press, *The American Political Process* (New York : McGraw Hill, 1965), p. 149.
48. Morton Grodzins, *The American System* (Chicago : Rand McNally, 1969), p. 9.
49. Morton Grodzins, "The American System as a Single Mechanism," in Duke Lockard (ed.), *Governing the States and Localities : Selected Readings* (New York : Macmillan, 1969), p. 8.
50. For details about the proposals, see, *Congressional Quarterly Weekly Report*, Vol. XXVII, No. 1407.
51. Based on the discussion in Grodzins, "The American System as a Single Mechanism," in Lockard, *op. cit.*, pp. 4-5.
52. Ira Sharkansky, *Public Administration : Policymaking in Government Agencies* (Chicago : Markham Publishing Co., 1970) p. 243.
53. See, *Newsweek*, March 30, 1970, p. 20.
54. Gordzins, in Lockard, *op. cit.*, p. 9.
55. See, James W. Fesler, *Area and Administration* (University of Alabama Press, 1949).
56. Nelson Rockefeller, "Inter-governmental Cooperation," in Joseph F. Zimmerman, *op. cit.*, p. 106.
57. See, Report of Advisory Committee to the Executive Committee on Federal-State-Local Relations, in *Proceedings of the National Governors' Conference* (Chicago : The National Governors' Conference, 1966), pp. 178-85.

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